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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,080	09/29/2003	Stuart D. Downes	EMC03-11	2177

47653 7590 09/11/2007
BAINWOOD HUANG AND ASSOCIATES LLC
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WESTBOROUGH, MA 01581

EXAMINER

KERNS, KEVIN P

ART UNIT	PAPER NUMBER
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1725

MAIL DATE	DELIVERY MODE
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09/11/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Interview Summary

Application No.

10/674,080

Applicant(s)

DOWNES ET AL.

Examiner

Kevin P. Kerns

Art Unit

1725

All participants (applicant, applicant's representative, PTO personnel):

(1) Kevin P. Kerns.

(3) _____.

(2) Jeffrey Duquette, applicants' attorney.

(4) _____.

Date of Interview: 06 September 2007.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____.

Claim(s) discussed: 1 and 26.

Identification of prior art discussed: Downes.

Agreement with respect to the claims f) ☒ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Kevin Kerns 9/6/07
Examiner's signature, if required

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: the Downes reference was discussed in terms of not being valid prior art in view of MPEP 706.02(I)(2), as the applicants suggested in their response dated March 23, 2007 and in this interview. Per page 700-60 of the MPEP and MPEP section 706.02(I)(2), and contrary to the final rejection of July 25, 2007, the applicants have fulfilled the requirements to overcome the Downes reference as prior art, and thus the final rejection mailed July 25, 2007 is improper since Downes is a base reference in the 35 USC 103(a) rejections of all rejected claims. As a result, the finality of the previous Office Action of July 25, 2007 will be withdrawn. A non-final action or a notice of allowance will follow this interview summary later this month.

Kevin Kerns 9/6/07